This single chapter on investment climate is excerpted from the FY 2005 Country Commercial Guide for Oman. The full text of the report is also available on this website.

Chapter 6: Investment Climate

Openness to Foreign Investment

Oman actively seeks private foreign investors, especially in the industrial, information technology, tourism, and higher education fields. Investors transferring technology and providing employment and training for Omanis are particularly welcome. Omani law relating to foreign investment is contained in the Foreign Business Investment Law of 1974, as amended. A Commerce Ministry spin-off, the Omani Center for Investment Promotion and Export Development (OCIPED) opened in 1997 to attract foreign investors and smooth the path for business formation and private sector project development. OCIPED also provides prospective foreign investors with information on government regulations, which are not always transparent – and sometimes contradictory. Nevertheless, despite OCIPED's efforts to become a "one-stop shop" for government clearances, the approval process for establishing a business can be tedious, particularly with respect to land acquisition and labor requirements.

With Oman's accession to the World Trade Organization in October 2000, automatic approval of majority foreign ownership (up to 70 percent) is available. Registration of these joint ventures is treated in the same manner as that common to all registrants. The foreign firm must supply documentary evidence of its registration in its home country, its headquarters' location, its capital holdings, and its principal activities. If a subsidiary, it must demonstrate its authority to enter the joint venture. Except in the petroleum sector, where concession agreements with the Ministry of Oil and Gas determine the terms of investment, new entities with greater than 70 percent foreign ownership are subject to the approval of the Minister of Commerce and Industry. As part of its WTO accession package, Oman is also expected to allow 100 percent foreign ownership in certain services sector, such as banking, law, accountancy, and information technology.

In early 1999, the government amended its corporate tax policy and lifted the requirement that foreign-owned joint ventures include a publicly traded joint stock company listed on the Muscat Securities Market (MSM) in order to enjoy national tax treatment. In 2003, Oman extended national tax treatment to all registered companies regardless of percentage of foreign ownership, i.e. a maximum rate of 12% tax on net profit. Omani branches of foreign companies are treated as foreign companies and therefore taxed at a maximum of 30%. Since Omani labor and tax laws are complex, investors should consider engaging local counsel.

New majority foreign-owned entrants are barred from most professional service areas, including engineering, architecture, law, or accountancy. In 1996, existing foreignowned professional service firms were given timeframes within which to obtain Omani partners (e.g., five years for accounting firms). An exception exists for professional service firms with subspecialties of critical importance to Oman. Wholly U.S.-owned service firms present in Oman include Ernst & Young, KPMG, and the law firm Curtiss, Mallett, Colt, Mosle, and Prevost. Under Omani commercial law, wholly foreign-owned branches of foreign banks are allowed to enter the market.

The permitted level of foreign ownership in privatization projects increased to 100 percent in July 2004, based on a Royal Decree providing an updated privatization framework. By privatization, Oman refers not only to the conversion of a state-owned or mixed enterprise into a private sector firm, but also to the establishment of any new firm providing a commercial service that had previously been provided by the state (e.g., electricity). One approach to partial conversion will be applied to the state-run telephone company, Omantel: the government is planning to float 30 percent of its stake in the company, while retaining the remaining 70 percent.

Industrial establishments with total capital of $52,000 or more must be licensed by the Ministry of Commerce and Industry. In addition, a foreign firm interested in establishing a company in Oman must obtain approval from other ministries, such as the Ministry of Regional Municipalities, Environment, and Water Resources. Foreign workers must obtain work permits and residency permits from the Ministry of Manpower and the Royal Oman Police's Immigration Office.

Oman's investment incentives focus on industrial development and include the following:

- Five year tax holiday, renewable once;
- Low-interest loans from the Oman Development Bank (now available on a very limited basis, and only for small firms);
- Low-interest loans from the Ministry of Commerce and Industry;
- Subsidized plant facilities and utilities at industrial estates;
- Feasibility studies supplied by the Ministry of Commerce and Industry; and
- Exemption from customs duties on equipment and raw materials during the first ten (10) years of a project.

Conversion and Transfer Policies

Oman has no restrictions or reporting requirements on private capital movements into or out of the country, and there have been no reports of difficulty in obtaining foreign exchange. The Omani Rial is pegged to the dollar at a rate of 0.3849 Omani Rials to the U.S. dollar. The Rial was devalued slightly in 1986 due to a collapse in oil prices, although the government did not find the devaluation productive. Late in 2001, Oman began implementing a new law for the prevention of money laundering, with updated regulations on financial crimes being issued in July 2004.

Expropriation and Compensation

Oman's belief in a free market economy and desire for increased foreign investment and technology transfer make expropriation or nationalization extremely unlikely. In any event, were a property to be nationalized, Article 11 of the Basic Law of the State stipulates that the Government of Oman will provide prompt and fair compensation.

Dispute Settlement

Oman is a party to the International Center for the Settlement of Investment Disputes (ICSID). However, the ultimate adjudicator of business disputes within Oman is the Commercial Court, which was reorganized in mid-1997 from the former Authority for Settlement of Commercial Disputes (ASCD). The Commercial Court has jurisdiction over most tax and labor cases, and can issue orders of enforcement of decisions (the ASCD was limited to issuing orders of recognition of decisions). The Commercial Court can also accept cases against governmental bodies, which the ASCD was unable to do. In such cases, however, the Commercial Court can issue – but not enforce – rulings against the government. Many practical details remain to be clarified.

Decisions of the Commercial Court are final if the value of the case does not exceed U.S. $26,000. A Court of Appeals exists for cases where the sum disputed is greater than U.S. $26,000, and a Supreme Court was established in mid-2001. Decisions of the Supreme Court are final. However, a case may be re-opened after a judgment has been issued if new documents are discovered or irregularities (e.g., forgery, perjury) are found. There is no provision for the publication of decisions.

Oman also maintains other judicial bodies to adjudicate various disputes. The Labor Welfare Board under the Ministry of Manpower hears disputes regarding severance pay, wages, benefits, etc. The Real Estate Committee hears tenant-landlord disputes, the Police Committee deals with traffic matters, and the Magistrate Court handles misdemeanors and criminal matters. Lastly, the Shari'a Court deals with family law, such as wills, divorces, personal and some criminal matters. All litigation and hearings must be conducted in Arabic.

The Oman Chamber of Commerce and Industry has an arbitration committee to which parties to a dispute may refer their case when the amounts in question are small. Local authorities, including "walis" (district governors appointed by the central government), also handle minor disputes. While Oman is a member of the GCC Arbitration Center, located in Bahrain, that center has yet to establish a track record.

Performance Requirements and Incentives

Since Oman's accession to the WTO in November 2000, it has been subject to TRIMs obligations.

Under the Industry Organization and Encouragement Law of 1978, incentives are available to licensed industrial installations on the recommendation of the Industrial Development Committee. "Industrial installations" include not only those for the conversion of raw materials and semi-finished parts into manufactured products, but also mechanized assembly and packaging operations. Firms involved in agriculture and fishing may also be included. Companies must have at least 35 percent Omani ownership to qualify for these incentives. This law is expected to change soon to reflect recent developments in foreign investment regulations.

In addition, companies selling locally produced goods are given priority for government purchases, provided that the local products meet standard quality specifications and their prices do not exceed those of similar imported goods by more than 10 percent. This incentive is available to Omani-owned commercial enterprises, as well as foreign industrial producers in joint ventures with local concerns. The government offers subsidies to offset the cost of feasibility and other studies if the proposed project is considered sufficiently important to the national economy.

Only in the most general sense of business plan objectives does proprietary information have to be provided to qualify for incentives.

Right to Private Ownership and Establishment

Under Oman's Foreign Capital Investment Law, non-Omanis are not allowed to conduct commercial, industrial, or tourism businesses or participate in any Omani company without a license issued by the Ministry of Commerce and Industry.

According to Oman's Commercial Companies Law, all actions by private entities to establish, acquire, and dispose of interests in business enterprises must be announced in the commercial register, and may be subject to the approval of the Ministry of Commerce and Industry. Subject to the licensing and taxation previously noted, foreign and domestic entities can engage in all legal forms of remunerative activity.

Protection of Property Rights

Real property rights are recognized and enforced in Oman, and records are well kept. There is no contemporary history of arbitrary seizures of land. Subject to government approval, GCC nationals may own property anywhere in Oman. The government actively seeks to promote tourism, and a key component of the drive to attract investment is the ability to sell villas and estates in mixed tourist/residential developments slated for construction. A new law by the Ministry of Housing, Electricity and Water allowing foreign nationals to own real estate within government-recognized tourism complexes in Oman was issued in November 2004. This law permits freehold ownership of residential property, including full rights of inheritance according to the laws of the owner's country of origin, as well as residency status for landowners and their immediate family members. The government is finalizing the implementing regulations and preparing to designate the zones within which the law will apply. The law does not apply to commercial real estate, which cannot be owned by non-GCC nationals.

Oman has a trademark law. Trademarks must be registered and noted in the Official Gazette through the Ministry of Commerce and Industry. Local law firms can assist companies with the registration of trademarks. In May 2000, Oman revised the trademark law to be in compliance with TRIPS.

Oman enacted a copyright protection law in 1996, but did not announce enforcement mechanisms until a ministerial decree in April 1998, which extended protection to foreign copyrighted literary, technical, or scientific works; works of the graphic and plastic arts; and sound and video recordings. In order to receive protection, a foreign-copyrighted work must be registered with the Omani government by depositing a copy of the work with the government and paying a fee. Since January 1999, the government has enforced copyright protection for audio and videocassettes, and destroyed stocks of pirated cassettes seized from vendors. The government did not extend protection to foreign-copyrighted software until late 1998, when it declared that retailers must halt the importation and sale of non-licensed software by July 1, 1999. Thereafter, the government stepped up efforts to curtail software piracy in Oman, including raids on businesses to ensure that Omani firms use no pirated software. The Business Software Alliance continues to work with Omani officials on improving enforcement of anti-piracy provisions.

Enforcement of the copyright protection decree by the Ministry of Heritage and Culture, the Ministry of Commerce and Industry, and the Royal Oman Police has been effective, as once plentiful pirated video and audiotapes and computer software have largely disappeared from local vendors' shelves. Nonetheless, under-the-counter sales of unauthorized software and DVDs persist in various locations, and authorities continue to grapple with effective enforcement measures against such sales. In late October 2003, 16 Omani companies signed the Business Software Alliance (BSA) Code of Ethics. The Code of Ethics declares that the signatories would neither commit nor tolerate the manufacture or use or distribution of unlicensed software and would only supply licensed software to customers. In late December 2004, a government raid of four unauthorized software resellers in coordination with BSA resulted in confiscation of pirated software. According to local satellite TV representatives, the Ministry of Commerce is staging sporadic raids on unlicensed distributors of pirated satellite signals in response to industry complaints.

In mid-2000, the government introduced new, WTO-consistent intellectual property laws on copyrights, trademarks, industrial secrets, and integrated circuits. Further, in October 2000 Oman issued new, WTO-consistent intellectual property rights legislation to protect patents and other intellectual property rights.

Oman has joined the World Intellectual Property Organization (WIPO), and asked WIPO to register Oman as a signatory to the Paris and Berne conventions on intellectual property protection. Although not yet a party to the WIPO Internet Treaties (i.e., the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty), the government claims it will soon accede.

Transparency of Regulatory System

In 2003, the Telecommunications Regulatory Authority (TRA) began functioning as a legal and regulatory body in Oman. The TRA oversees the process of liberalization and privatization of the telecommunications sector, and is composed of four senior officials (one from the Ministry of National Economy, one from Omantel, one from the Royal Oman Police, and the Minister of Transport and Communications, who serves as the chairman). In addition, the new privatization framework law passed in July 2004 provides for a new regulator for public utilities that are being privatized in the power and water sectors.

The government recognizes that its regulatory environment can hamper investment and commercial activity. In addition to the ownership and agency requirements already mentioned, the licensing of business activities can be time-consuming and complicated. The absence of a particular clearance will stall the entire process. For example, processing shipments in and out of the Mina Qaboos Port can add significantly to the amount of time it takes to get goods to market or inputs to a project.

Oman’s tax laws can also impede foreign investment. Although Oman amended its tax laws to allow national tax treatment for joint ventures regardless of percentage of foreign participation, branches of foreign companies are taxed at 30 percent of income. Oman’s labor laws, which require minimum quotas of Omani employees depending on the type of work, form another potential impediment to foreign investment. The government’s Omanization effort has been the subject of criticism in the Omani private sector, which often complains that it can harm productivity and restrict hiring and firing policies.

Government red tape and long delays in official decision-making are other frequent complaints among the local private sector. Because decisions often require the approval of multiple ministries, the government decision-making process can be tedious and nontransparent.

The government has issued a series of regulations aimed at increasing transparency and disclosure in the financial market. The Capital Market Authority (CMA) has ordered all public companies to comply with a set of standards for disclosure. Under the requirements, holding companies must publish the accounts of their subsidiaries with the parent companies' accounts. Companies must also fully disclose their investment portfolios, including details of the purchase cost and current market prices for investment holdings. The new initiatives also require publication of these financial statements in the local press. At the same time, the Central Bank has also introduced new rules to limit the level of "related party transactions" (financial transactions involving families or subsidiary companies belonging to major shareholders or board members) in Oman’s commercial banks. The new rules will help increase transparency in financial transactions in local banks and the MSM, and will help clarify the activities of publicly traded companies.

Efficient Capital Markets and Portfolio Investment

There are no restrictions in Oman on the flow of capital and the repatriation of profits. Access to Oman’s limited commercial credit resources is open to Omani firms with some foreign participation. Joint stock companies with capital in excess of $5.2 million must be listed on the MSM. According to the recently amended Commercial Companies Law, companies must have been in existence for at least two years before being floated for public trading.

The Sultanate has two loan programs to promote investment. The Ministry of Commerce & Industry (MOCI) administers a program designed to promote industrial investment. Formerly interest free, the program now charges 4 percent interest, with generous repayment terms. MOCI loans will match equity contributions in the Muscat capital area, or 1.25 times equity for other locations. Projects with a high percentage of local content or employing large numbers of Omanis are given priority, as are tourism projects outside the capital area. The Oman Development Bank also administers a loan program to support development of smaller loans to industry, agriculture, fisheries, petroleum, mining, and services.

Foreigners may invest in the MSM, as long as this is done through a local broker. Since the 1998 market downturn, MSM statistics show that the percentage of foreign investment in the MSM has remained stable at around 18 percent.

The legacy of the economic slowdown continues to impact the banking sector, although most banks showed a significant increase in profitability during 2004. Corporate profitability declined significantly in 1999, but has experienced a robust recovery in subsequent years. The banking law issued in November 2000 allowed more efficient control over the financial sector by the authorities. Furthermore, early in

2003 the Central Bank of Oman promulgated new rules and regulations to ensure proper and efficient management of the banks. The effect of this circular was enhanced by the implementation of a Code of Corporate Governance, as well as amendments to the Capital Market Law and the Commercial Companies Law which stipulated that the boards of directors of all jointly listed companies should appoint an internal audit committee, an internal auditor, and a legal advisor.

Banking consolidation continued in 2004 with the announced merger of Bank Muscat and the National Bank of Oman, a move that would create a $6.5 billion institution. Subject to final audits and approval by the shareholders of the respective companies, this merger is expected to become final in 2005.

Political Violence

Politically motivated violence is virtually unknown in Oman. Since October 2000, there have been some demonstrations, but these were generally orderly.

Corruption

Article 53 of the Basic Law of the State, issued in November 1996, compelled ministers to resign their offices in public shareholding enterprises. As of 1999, Under Secretaries (deputy ministers) were also required to resign from the boards of any public companies. Most major contracts are awarded through a slow, rigorous, but generally clean tender process. Contracts awarded through a ministry's internal tender process are subject to fewer controls. Although Oman is not a signatory to the OECD convention on combating bribery, Sultan Qaboos has dismissed several ministers and senior government officials for corruption during his reign. Oman has not yet signed the UN Convention Against Corruption.

Bilateral Investment Agreements

Oman and the United States signed a bilateral Trade and Investment Framework Agreement (TIFA) on July 7, 2004. This agreement established a U.S.-Oman Trade and Investment Council, which met for the first time in Washington in September 2004. Investment issues are under active discussion in follow-up meetings, especially in preparation for negotiating a Free Trade Agreement (FTA) with Oman beginning in Spring 2005. These negotiations will supplant previous discussions regarding a Bilateral Investment Treaty, as an FTA will include an investment chapter.

OPIC and Other Investment Insurance Programs

Oman is eligible for Export-Import Bank of the United States (EXIM) financing and insurance coverage. In late 2003, the Overseas Private Investment Corporation (OPIC) proposed an update to its existing 1976 bilateral agreement with Oman to reflect current investment realities. As of February 2005, the Omani government is still reviewing the updated agreement.

Labor

A new Labor Law was promulgated by Royal Decree in 2003, providing additional protections for workers and raising the minimum working age from 13 to 15. Implementing regulations adopted in early 2004 clarified the role and scope of workers' representation committees as outlined in this law. In addition, the government is expanding its Omanization drive to areas outside the capital of Muscat, particularly in the retail, transport, and light manufacturing sectors.

Oman relies heavily on expatriate labor, primarily from India, Bangladesh, Pakistan and Sri Lanka, to perform menial and physically taxing work as well as to fill managerial positions. Omani labor law stipulates basic practices to safeguard workers; employers set wages for Omanis within guidelines delineated by the Ministry of Manpower. The minimum wage for Omanis working in the private sector, including salary and benefits, is 120 R.O. (about $312) per month. Work rules must be approved by the Ministry and posted conspicuously in the work place. The workweek is five days in the public sector and generally five and one-half days in the private sector. The labor law and subsequent regulations also detail requirements for occupational safety and access to medical treatment.

"Omanization" – the replacement of expatriate labor by Omanis – is a high priority for the government. Foreign nationals may not be employed as technical assistants, guards, light vehicle drivers, Arabic typists, agricultural workers, forklift or mixer operators, or public relations officers, unless the employer can show that there are no Omanis available for the position. Only Omanis are permitted to work as taxi drivers, customs expediters, and fishermen. In 1999 and 2000, the government "Omanized" (i.e., banned expatriates from working in) a number of low-wage jobs, including vegetable and grocery shopkeepers, water tank truck drivers, gas cylinder truck drivers, plow operators, and real estate agents. Through concerted training efforts, the government has also sought to increase the number of Omanis employed as gasoline station attendants, waiters, barbers, and hairdressers, while allowing expatriates to remain employed in such positions. The government recently announced its intention to Omanize 24 more occupation classifications over the next four years. The first phase of the plan will include 16 occupation classifications, mainly different varieties of shopkeepers and repairmen.

In 1994, Oman became a member of the International Labor Organization (ILO).

Foreign-Trade Zones/Free Ports

Oman has no general provisions for the temporary entry of goods. In the case of auto re-exports, a company can import vehicles into the country for the purpose of re-export and have duties refunded if it re-exports the vehicle within six months. In 1999, the government opened a new free trade zone at an interior border crossing point with Yemen (al-Mazyounah). Oman is currently planning to develop a free trade zone in Salalah, adjacent to the international container transshipment port that opened in November 1998. The government has also expressed its intention to establish a free zone at Sohar port, in conjunction with plans to expand the existing port and industrial zone.

Foreign Direct Investment Statistics

Systematic information on foreign direct investment is limited. As per Capital Market Authority statistics, total investment in listed Omani companies with foreign participation was $2.4 billion in September 2004, of which 8.94% was foreign investment. Foreign capital constituted 7.49% of capital invested in finance, 3.03% in manufacturing, and 8.94% in insurance and services.

The largest foreign investor is Royal Dutch Shell Oil, which holds 34 percent of Petroleum Development Oman, the state oil company, and 30 percent of Oman Liquid Natural Gas. Other companies, such as Occidental Petroleum, BP Amoco, Novus Petroleum, Hunt, and Nimr have also invested in the petroleum sector. Two U.S. firms, Gorman Rupp (water pumps) and FMC (wellhead equipment), have entered into industrial joint ventures with Omani firms. Both joint ventures involve modest manufacturing operations. Since 1999, Oman has witnessed increased foreign direct investment through the privatization process. Major foreign investors that have entered the Omani market recently include PSEG Global (U.S.), AES (U.S.), and National Power (U.K.). Dow Chemical of the U.S. announced a joint venture with Oman Oil Company and the Government of Oman in July 2004 to develop a large petrochemical plant in Sohar.

Web Resources

Ministry of Commerce and Industry
http://www.mocioman.gov.om/

Ministry of National Economy
http://www.moneoman.gov.om/

Omani Center for Investment Promotion and Export Development (OCIPED)
http://www.ociped.com/

Ministry of Information
http://www.omanet.om/english/home.asp

Please Note: Country Commercial Guides are available to U.S. exporters on the website: **http://www.export.gov**. They can be ordered in hard copy or on diskette from the National Technical Information Service (NTIS) at 1-800-553-NTIS.

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